REMARKS

Claim Status

Claims 1-25, 27, 28, 69-74 and 76-87 were pending in the application. Claims 1-25, 27, 28, 69-74 and 76-87 were rejected over cited prior art references.

Applicant amends claims 1, 11, 12, 14-16, 22, 71 and 74.

Applicant kindly requests cancellation of claims 13 and 28.

Applicant further kindly requests consideration of newly added claims 89-93. Support for claims 89-93 can be found in the specification at paragraphs [0037] – [0039] and Figure 4.

As such, after entry of these amendments, claims, 1-12, 14-25, 27, 69-74, 76-87 and 89-93 will be pending.

Applicant respectfully requests reconsideration and allowance of all pending claims.

New Claims

Newly added claims 89-93 recite entitled aspects of the current invention.

Specifically, independent claim 89 further recites a system for communicating voice data in IP to a wireless device not supporting Internet protocol (IP), in which the elements are recited in means-plus-function format. The functional requirements are generally equivalent to the elements recited in independent method claim 11.

Dependent claims 90-93 further provide for re-assignment of IP addresses during a voice call based on the wireless device moving from one area (*i.e.*, cell) supported by a first infrastructure component (e.g., BTS or BSC) to a second area (i.e., cell) supported by a second infrastructure component (e.g., BTS or BSC). The re-assigned IP address being allocated from the second infrastructure device. In this regard, the location of the wireless device may be continually determined/monitored during the voice call to determine if re-assignment of the IP address is warranted.

Claim Rejections – 35 USC § 102

Claims 1, 3, 5-8, 11-15, 18, 19, 22, 27, 28, 73, 74, 77 and 80-82 are rejected under 35 USC § 102(e), as being anticipated by United States Patent Publication No. 2003/0169727, published in the name of Curry *et al.*, (hereinafter, "the Curry publication"). Applicant respectfully traverses the rejection and submit that the Curry publication fails to teach or suggest the present invention as claimed.

Prima Facie Anticipation Not Satisfied

For a prior art reference to anticipate, 35 U.S.C. §102 requires that "each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950 (Fed. Cir. 1999) (*quoting Verdegaal Bros., Inc. v. Union Oil Co.*, 814 F.2d 628, 631, 2USPQ2d 1051, 1053 (Fed. Cir. 1987)).

The Curry Publication Does Not Teach or Suggest Determining a Location of a Wireless Device and Associating an IP Address with the Wireless Device Based at least in part on the Location of the Wireless Device.

Independent claims 1, 11, 22, 74 and 89

Independent claims 1, 11, 22 and 74 have been amended to recite, *inter alia*., that a location of the wireless device be determined and that an IP address, which is allocated from a infrastructure component (*i.e.*, a receiving virtual IP endpoint), based at least in part on the on the determined location of the wireless device. Further new independent claim 89 recites, *inter alia.*, "means for determining a location of the wireless device, means for associating an IP address with the wireless device based at least in part on the location of the wireless device and means for receiving, at a infrastructure component from which the IP address is allocated, communication device-generated voice data in IP protocol." Support for these amendments can be found in the specification at paragraph [0032], paragraphs [0037] – [0041], and Figures 2, 4 and 5. As described in the specification at

paragraph [0038], by determining the location of the wireless device a location-relevant IP address can be assigned to the wireless device. For example, the systems, methods and apparatus of the current innovation allow the wireless device to move from one area supported by one infrastructure device to another area supported by another infrastructure device (i.e., another BTS or BSC), and further allow for another IP address, allocated to the new BTS, to be assigned to the wireless device. Thus, the recited subject matter allows location-related IP address allocation, which provides for seamless virtual voice over IP in the instances in which the wireless device does not support Internet protocol.

In the current Office Action, in rejecting claims 13 and 28 (which have been cancelled in the current application because they include limitations similar to the newly amended limitations in corresponding independent claims 11 and 22), the Examiner relies on paragraph [0100] of the Curry publication. According to the Office Action at page 6, third paragraph, "Curry discloses service gateway 69 converts the message to TCP/IP packet format, with the appropriate IP address for the HLR (Home Locator Register) database 33 and multiplexes the packet(s) into the portion of the T1 stream going out of the network 31." However, the Applicant asserts neither the referenced paragraph [0100] of the Curry publication nor any other portion of the Curry publication teaches or suggests *determining the location of the wireless device* and subsequently basing the assignment of an IP address to the wireless device at least in part on the location of the wireless device (emphasis added to show distinguishing characteristic).

In the Curry publication the IP address for the HLR database (33) is assigned to the IP converted transmission. This is because the gateway system (5) of the Curry teachings, which the Office Action states as being equivalent to the infrastructure component of the claimed invention, is a localized private system, as opposed to the common public cellular telephone networks. See paragraph [0031] of the Curry publication, which states, "The gateway system 5 is a localized private system, as opposed to the common, public cellular telephone networks. The gateway system, for example, may provide communication within an office or industrial complex. Alternatively, a service provider may operate the gateway system 5 in a geographically limited public area of interest, such as an airport, shopping

center, hotel/convention center complex or the like." Thus, the system as described in the Curry publication is limited to providing translated IP data to the wireless devices as long as the wireless device remains located in the local area network (*i.e.*, in the office, the airport, the shopping center, hotel complex or the like).

Thus, the teachings of the Curry publication are in contrast to the present invention, which determines a location of the wireless device and assigns an IP address to the wireless device based at least in part on the location of the wireless device. Furthermore, by determining the location of the wireless device, the system can allocate another IP address, associated with another infrastructure component, to the wireless device when the wireless device moves to another area (i.e., an area/cell in which the another BTS or BSC is now the closest BTS or BSC to the wireless device).

Therefore, since the Curry publication does not teach or suggest, determining the location of the wireless device and allocating an IP address to the wireless device from the infrastructure device based at least in part on the location of the device, independent claims 1, 11, 22, 74 and 89 are believed to be allowable. Applicant respectfully requests reconsideration and allowance of claims 1, 26, 52 and 53 and 7.

Claims 3, 5-8, 12, 14, 15, 18, 19, 27, 73 and 80-82 are believed allowable for at least the same reasons as presented above with respect to Claims 1, 11, 22 and 74 by virtue of their dependence, either directly or indirectly, from Claims 1, 11, 22 and 74. Additionally, each of these claims separately recites a combination of subject matter not disclosed or suggested by the cited references. Thus, Applicant respectfully requests reconsideration and allowance of claims3, 5-8, 12, 14, 15, 18, 19, 27, 73 and 80-82.

Claim Rejections – 35 USC § 103

Claims 2, 9, 17, 20, 25, 76 and 84 are rejected under 35 USC § 103(a), as unpatentable over the Curry publication in view of United States Patent No. 7,058,076, issued in the name of Jiang (hereinafter "the Jiang patent". Applicants respectfully traverse the rejection and submit that the Curry publication and the Jiang patent, taken

alone or in combination, fail to teach, suggest or render obvious the present invention as claimed.

Prima Facie Obviousness Not Satisfied

The patent Office has the burden under 35 U.S.C. § 103 to establish a *prima facie* case of obviousness. *In re Piasecki*, 745 F.2d 1468, 1471-72, 223 USPQ 785, 787 (Fed. Cir. 1984). To establish a *prima facie* case of obviousness, three basic criteria must be met. First, the prior art references must teach or suggest all of the limitations. Second, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Third, there must be a reasonable expectation of success. The teachings or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed Cir. 1991), See MPEP § 21430 - § 2143.03 for decisions pertinent to each of these criteria.

It is respectfully submitted that claim 1, from which claims 2 and 9 depend, claim 11, from which claims 17 and 20 depend, claim 22, from which claim 25 depends, and claim 74, from which claims 76 and 84 depend, are patentable over the Curry publication. The Jiang patent does not cure the defect of lacking any description or suggestion of a system, device or method that includes, *inter alia*, determining the location of the wireless device and allocating an IP address to the wireless device from the infrastructure device based at least in part on the location of the device. The Jiang patent is limited to a teaching of a wireless infrastructure network ("WINN") that includes packet endpoints, such as base stations, communicating via IP-based signaling to eliminate the need for Mobile switching centers (MSCs) in the network. Thus, the teachings of the Jiang patent do not cure the deficiencies of the Curry publication.

As such, claims 2, 9, 17, 20, 25, 76 and 84 are patentable over the cited references for at least the same reasons. Additionally, each of these claims separately recites a

combination of subject matter not disclosed or suggested by the cited references. Therefore, based on the above remarks, the rejection of claims 2, 9, 17, 20, 25, 76 and 84 should be withdrawn. Additionally, the Jiang patent also fails to provide the necessary motivation to combine the teachings therein with the teachings of the Curry publication, and the Curry publication also fail to provide the necessary motivation to combine the teachings therein with the teachings of the Jiang patent.

Thus, claim 1 and dependent claims 2 and 9, claim 11 and dependent claims 17 and 20, claim 22 and dependent claim 25, and claim 74 and dependent claims 76 and 84 are distinguishable over the Curry publication and the Jiang patent, taken alone or in combination, and thus Applicants respectfully request allowance.

Claim Rejections – 35 USC § 103

Claims 4, 10, 16, 21, 23, 24, 69-72, 78, 79 and 85 are rejected under 35 USC § 103(a), as unpatentable over the Curry publication. The Office Action states that the further limitations taken by these dependent claims are implicit in the architecture and/or official notice that the limitations are well-established practices obvious to one skilled in the art. Applicants respectfully traverse the rejection and submit that the Curry publication fails to teach, suggest or render obvious the present invention as claimed.

It is respectfully submitted that claim 1, from which claims 4, 10, 69 and 70 depend, claim 11, from which claims 16, 21, 71 and 72 depend, claim 22, from which claims 23 and 24 depend, and claim 74, from which claims 79 and 85 depend, are patentable over the Curry publication for the reasons provided above in regard to the 35 USC § 102(e) rejection. Thus, the Curry publication does not disclose or suggest the recited subject matter.

As such, claims 4, 10, 16, 21, 23, 24, 69-72, 78, 79 and 85 are patentable over the Curry publication for at least the same reasons. Therefore, based on the above remarks, the rejection of claims 4, 10, 16, 21, 23, 24, 69-72, 78, 79 and 85 should be withdrawn and thus Applicants respectfully request allowance.

Claim Rejections – 35 USC § 103

Claim 87 is rejected under 35 USC § 103(a), as unpatentable over the Curry publication in view of United States Patent Publication No. 2002/0107593, published in the name of Rabipour (hereinafter "the Rabipour publication". Applicants respectfully traverse the rejection and submit that the Curry publication and the Rabipour publication, taken alone or in combination, fail to teach, suggest or render obvious the present invention as claimed.

It is respectfully submitted that claim 11, from which claim 87 depends, is patentable over the Curry publication. The Rabipour publication does not cure the defect of lacking any description or suggestion of a system, device or method that includes, *inter alia*, determining the location of the wireless device and allocating an IP address to the wireless device from the infrastructure device based at least in part on the location of the device. The Rabipour publication is limited to a teaching of a method for controlling an operative setting of a communication link and the communication link being able to acquire the operative settings. Thus, the Rabipour publication does not cure the deficiencies of the Curry publication.

As such, claim 87 is patentable over the cited references for at least the same reasons. Additionally, claim 87 recites a combination of subject matter not disclosed or suggested by the cited references. Therefore, based on the above remarks, the rejection of claim 87 should be withdrawn. Additionally, the Rabipour publication also fails to provide the necessary motivation to combine the teachings therein with the teachings of the Curry publication, and the Curry publication also fail to provide the necessary motivation to combine the teachings therein with the teachings of the Rabipour publication.

Thus, claim 87 is distinguishable over the Curry publication and the Rabipour publication, taken alone or in combination, and thus Applicants respectfully request allowance.

Claim Rejections – 35 USC § 103

Claim 86 is rejected under 35 USC § 103(a), as unpatentable over the Curry publication in view of the Jiang patent and in further view of the Rabipour publication. Applicants respectfully traverse the rejection and submit that the Curry publication, the Jiang Patent and the Rabipour publication, taken alone or in combination, fail to teach, suggest or render obvious the present invention as claimed.

It is respectfully submitted that claim 74, from which claim 86 depends, is patentable over the Curry publication. As discussed above, neither the Jiang publication nor the Rabipour publication cure the defect of lacking any description or suggestion of a system, device or method that includes, *inter alia*, determining the location of the wireless device and allocating an IP address to the wireless device from the infrastructure device based at least in part on the location of the device.

As such, claim 86 is patentable over the cited references for at least the same reasons. Additionally, claim 86 recites a combination of subject matter not disclosed or suggested by the cited references. Therefore, based on the above remarks, the rejection of claim 86 should be withdrawn.

Thus, claim 86 is distinguishable over the Curry publication, the Jiang patent and the Rabipour publication, taken alone or in combination, and thus Applicants respectfully request allowance.

CONCLUSION

In view of the foregoing, it is respectfully submitted that the application and all of the claims are in condition for allowance. Reexamination and reconsideration of the application are requested.

If there are any fees due in connection with the filing of this response, please charge such fees to our Deposit Account No. 17-0026. If a fee is required for an extension of time under 37 C.F.R. 1.136 not accounted for, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

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